

CHAPTER 2.8

VACATING OF PUBLIC LANDS AND PLATS

Section 2.8.10 - BACKGROUND

Petitions to vacate all or parts of a public street, alley, easement, plat, or other public place may be granted by the City Council if determined not to be harmful to the City or adjacent properties.

Section 2.8.20 - EXEMPTIONS

Notwithstanding other provisions of the Code, exemptions from this chapter include:

- a. The release of public easements for subsurface water, sanitary sewer, and storm drainage lines owned and operated by the City; and
- b. Public Utility Easements (PUEs) for franchise utilities operating within the City's corporate limits that are no longer necessary to serve surrounding properties, as determined by the City Engineer. The City does not consider PUEs to be public places for the purposes of ORS 271. Vacating of City utility easements and PUEs may be initiated by City staff or private parties. It shall be the responsibility of the initiator to do the following:
 - 1. Obtain a statement from all owners of property adjacent to the proposed vacating of a water, sanitary sewer, or storm drainage easement, verifying that they have been notified and do not oppose it;
 - 2. Obtain a statement from all franchise utilities licensed by the City verifying that they have been notified of the proposed vacating of the PUE and do not oppose it;
 - 3. Provide a completed easement release form for signature by the City Manager; and
 - 4. Record the easement release and provide the City a copy of the recorded document.

Section 2.8.30 - PURPOSES

The procedures and review criteria established in this chapter are used for vacating public lands and plats for the following purposes:

- a. Permit vacating of public lands not needed for municipal purposes where consistent with the community land use policies and goals;
- b. Permit private ownership of public land where the proposed use of the lands promotes the public welfare; or

- c. Permit vacating of all or part of undeveloped plats.

Section 2.8.40 - PROCEDURES

2.8.40.01 - Initiation of Request

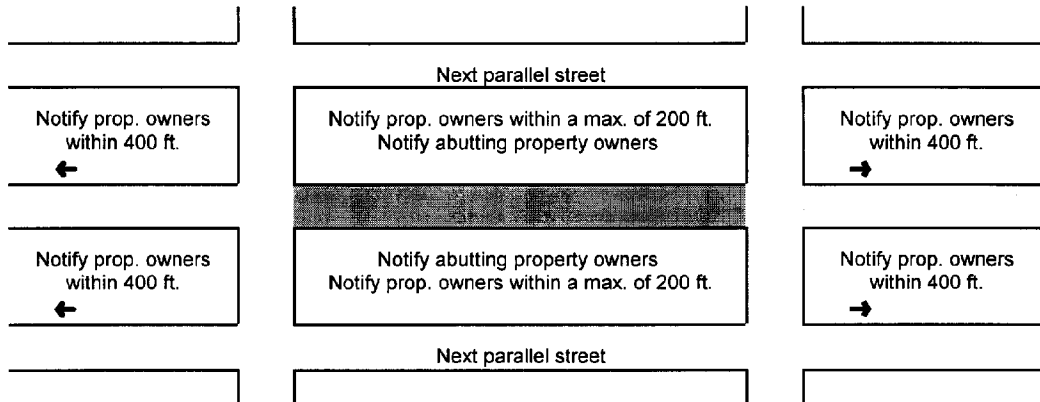
Initiation of the request to vacate a public land or plat may be accomplished by one of the following ways:

- a. Filing of an application in accordance with the provisions of this chapter and ORS 271; or
- b. A majority vote of the City Council.

2.8.40.02 - Application Requirements

- a. Applications submitted by property owners shall be made on forms provided by the Director and shall be accompanied by a map of the area proposed to be vacated and other information necessary for an adequate review.
- b. At the time the application to vacate public land is submitted, the person(s) filing the application shall submit letter(s) of consent from affected property owners. For purposes of this Code and in compliance with ORS 271.080, affected property owners shall be defined as follows:
 - 1. All abutting property owners;
 - 2. Owners of at least two-thirds of the real property associated with the vacation. Real property is the land surrounding the street or street portion to be vacated, including:
 - (a) Land extending laterally to the next street serving as a parallel street, up to a maximum of 200 ft.; and
 - (b) Land extending a distance of 400 ft. from the ends of the area to be vacated.

The following graphic illustrates real property.



3. When vacating part or all of a plat, consent of the owners of at least two-thirds of the land included in the proposed vacation is required. An exception to this provision shall occur where the vacation includes a street, in which case the requirements in "2" above apply.
- c. Consent of affected property owners shall be submitted in writing, notarized, and duly acknowledged by the Director prior to scheduling of a public hearing for the requested vacation.
 - d. At the discretion of the City Engineer, the applicant may be required to remove or abandon utility connections prior to final approval.

2.8.40.03 - Acceptance of Application

- a. The Director shall review the application in accordance with Chapter 2.0 - Public Hearings and ORS 271. After accepting a completed application, the Director shall schedule a public hearing to be held by the City Council.
- b. Any revisions to an accepted application that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees and rescheduling of the required public hearing.

2.8.40.04 - Notice of the Public Hearing

Notice of the public hearing shall be provided in accordance with Chapter 2.0 - Public Hearings and ORS 271.110.

2.8.40.05 - Staff Evaluation

The Director shall prepare a report that evaluates whether the proposal complies with the review criteria below. The report shall include a recommendation for approval or denial.

2.8.40.06 - Review Criteria

A vacation may be approved if the City Council finds that the request meets the following criteria:

- a. Is consistent with the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council;
- b. Will not negatively affect access between public rights-of-way or existing properties, potential lots, or public facilities/utilities;
- c. Will not negatively affect existing or future transportation circulation or emergency service protection; and
- d. Will serve the present and future public interest.

2.8.40.07 - Action by the City Council

A public hearing shall be conducted by the City Council in accordance with Chapter 2.0 - Public Hearings and ORS Chapter 271. Following the close of the public hearing, the City Council shall approve, conditionally approve, or deny the requested vacation. In the case of vacated plats, the Council shall not pass any ordinance for the vacation of all or part of the plat until the City Recording Officer has verified that all City liens and taxes have been paid.

Unless the City Council directs a method by which the City provides for paying damages, no street area shall be vacated without the consent of owners of abutting properties if the vacating would substantially affect the market value of these properties. Provisions for paying such damages may be made by a local assessment or in another manner as provided by the City charter. Two or more streets, alleys, avenues, and boulevards, or parts thereof, may be addressed in one proceeding provided they intersect or are adjacent and parallel to each other.

2.8.40.08 - Notice of Disposition

The Director shall provide the applicant with a notice of disposition in accordance with Chapter 2.0 - Public Hearings. The notice shall include a written statement of the City Council's decision, reference to findings leading to it, any conditions of approval, and the appeal period deadline. The notice of disposition shall also be mailed to all persons who presented oral or written testimony at the public hearing.

2.8.40.09 - Effective Date

The effective date of the vacating shall be the effective date in the signed ordinance vacating the property.

2.8.40.10 - Existing Service Connections

If the City Engineer determines that existing public utilities or service connections are not required for the proposed vacated land, they shall be removed prior to final action by the City Council.

Section 2.8.50 - VACATION RECORDS TO BE FILED

The City shall file with the County Recorder a certified copy of the ordinance and any other legally required document vacating any street or plat. The applicant shall bear the cost of recording, preparing, and filing the certified copy of the ordinance and map. The City shall then file with the County Assessor and County Surveyor certified copy of the ordinance.